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Testimony of  
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Before the  
**UNITED STATES HOUSE OF REPRESENTATIVES**  
**COMMITTEE ON HOMELAND SECURITY,**  
**SUBCOMMITTEE ON ECONOMIC SECURITY, INFRASTRUCTURE**  
**PROTECTION & CYBERSECURITY**

Regarding  
**THE SCREENING APPLIED FAIRLY AND EQUITABLY TO**  
**TRUCKERS ACT OF 2006**

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Submitted by



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Good morning Chairman Lungren, Congresswoman Sanchez, and members of the Subcommittee. Thank you for inviting me to testify regarding H.R. 5604, the Screening Applied Fairly and Equitably to Truckers Act of 2006. That legislation that will significantly improve an inefficient, overreaching system as well as provide a truly risk-based focus on the movement of potentially dangerous materials in our country.

My name is Todd Spencer. I have been involved with the trucking industry for over 30 years, first as a truck driver and an owner-operator; and then as a representative of the hardworking, fiercely patriotic Americans behind the wheel of commercial motor vehicles. I am currently the Executive Vice President of the Owner-Operator Independent Drivers Association (OOIDA).

Established in 1973, OOIDA is the national trade association representing the interests of independent owner-operators and professional drivers on all issues that affect small business truckers. The more than 140,000 members of OOIDA are small business men and women in all 50 states who collectively own and operate more than 230,000 individual heavy-duty trucks. Small business is the backbone of trucking with 80% of the industry comprised of fleets of 20 or fewer trucks.

The Association actively promotes the views of small business truckers through its interaction with state and federal government agencies, legislatures, the courts, other trade associations, and private entities to advance an equitable business environment and safe working conditions for commercial drivers. The hazardous materials endorsement and the Transportation Security Administration's security threat assessment process directly affects owner-operators, motor carriers and professional drivers, including members of OOIDA.

As you know, the USA PATRIOT Act of 2001 contained a provision requiring background checks for individuals operating motor vehicles transporting hazardous materials. The TSA took on this responsibility initiating a security threat assessment requirement that has caused a considerable number of problems for state administrators, the trucking industry and the shipping community that depends on that industry. Initially the TSA did a name based check on all present hazmat endorsement drivers, but have since instituted an arduous threat assessment process that has required a new system to be put in place by state governments and federal contractors to complete fingerprinting and background checks.

Small business truckers believe that the security threat assessment process that has been put in place by the TSA for general hazmat endorsements are an overreaching solution to a problem that has not been fully identified, and for which truckers are saddled with unnecessary burdens and expenses. As has been stated by a variety witnesses at previous hearing hold before your subcommittee on this topic, the system that the TSA has put in place is wrought with inefficiencies.

TSA's background check/security threat assessment system is cumbersome and problematic for all involved parties. The chief complaints that OOIDA hears from drivers about the present system are focused on the excessive out-of-pocket costs and potential of lost revenue caused by inefficiencies within the system. In addition, the shortage of facilities, lack of truck parking at facilities, available times of operation for the facilities and the amount of time necessary to get results are commonly voiced frustrations.

### **Focusing TSA on Security Sensitive Hazardous Materials**

While we do not fault lawmakers or federal agencies for their rapid response to the tragedy of 9/11, the background check requirement for hazmat drivers contained in the Patriot Act was overly broad in its scope toward existing veteran hazmat drivers while it seriously missed the mark in addressing some of the more obvious or likely ways a commercial vehicle could be used to do great harm.

The typical owner-operator member of our organization has nearly twenty years of experience driving trucks. They are proven professionals, driving safely and responsibly meeting the needs of our nation's citizens. While only about 12% of them haul hazardous materials exclusively, roughly 70% of them currently have hazmat endorsements, primarily to keep their load prospects open. Well over 2 million of these Americans and their fellow drivers will have to undergo background checks when their current commercial drivers licenses (CDLs) come up for renewal next and at subsequent renewals thereafter.

OOIDA does not believe these veteran drivers are likely to turn into terrorists nor do we believe that most of the hazmat cargoes they transport would have any appeal to terrorists. By requiring them to undergo TSA background checks, scarce resources in time and money are simply wasted with no corresponding benefit in reducing the likelihood of a terrorist incident.

OOIDA strongly supports the concept of narrowing TSA's security threat assessments to focus on individuals wishing to haul hazardous materials that have been deemed as security sensitive by amending the Patriot Act's hazmat background check requirements.

A general hazardous materials endorsement for loads that are not classified as "Security Sensitive" should be preserved in the CDL licensing process for truck drivers. Hazardous materials that are not deemed to be security sensitive do pose safety risks to truck drivers, dockworkers, the general public and first responders. OOIDA believes that along with mandated training and increased testing requirements for those wishing to obtain a Commercial Drivers License, compulsory training in the handling and transporting of non-security sensitive hazardous materials must also be a part of the licensing/endorsement process.

On behalf of the members of OOIDA and truckers across the country, I want to thank Mr. Lungren, Ms. Sanchez, Mr. Thompson, and other members of the Homeland Security Committee for introducing H.R. 5604, the Screening Applied Fairly and Equitably to Truckers Act of 2006. This legislation outlines a bold effort that is needed to bring commonsense back into homeland security policies that apply to American truck drivers. The SAFE Truckers Act will significantly improve a system that has already created unnecessary expenses in time and money for the federal government, state governments and thousands of hardworking taxpayers.

### **The Screening Applied Fairly and Equitably to Truckers Act of 2006**

OOIDA appreciates that in a time when there is a constant tug between homeland security and individual privacy and regulatory burden, this legislation acknowledges that it is important for the government to make its best effort to narrow and focus its efforts to just those areas where there may be a true homeland security threat; to just those persons who have access to security sensitive areas or materials; to delve into a person's privacy the minimal amount necessary to accomplish the policy goal; and to vigorously protect the public release of any person's private information. By identifying those hazardous materials that are security sensitive, there is no longer a security reason to continue background checks on drivers of non-security sensitive hazardous materials.

The Association also appreciates the effort made in this bill to resolve overlapping background check requirements of truck drivers. A truck driver who has provided certain information for one background check should not have to go through an entire new process, such as being re-fingerprinted and facing more waiting time at processing centers, or face the extra cost, to get very similar background check for a different government agency.

Congressman Carnahan recently introduced H.R. 5560, The Professional Driver Background Check Efficiency Act. That bill serves as a compliment to the Safe Truckers Act by providing the TSA with strong incentives to ensure that the security threat assessment systems that they have in place are designed and implemented with the highest degree of efficiency.

We want to thank the sponsors of Safe Truckers Act for including provisions for appeals and waiver processes. Instituting an appeal process is very important for persons to prove whether negative information collected during the background check pertains to them and whether they have been a victim of mistaken identity or identity theft. Instituting a waiver process is very important to give persons who have turned their life around an opportunity to prove that they are not a security threat.

OOIDA encourages the committee to ask its proposed Task Force on Disqualifying Crimes to produce its recommendations in a format that recognizes that different states have different definitions of various crimes. What is a felony in one state may be a misdemeanor in another. What is murder in one state may be manslaughter in

another. With such differences in the same named crime, a trucker in one state may be disqualified while a trucker who committed the same act in a different state may be approved. The list of disqualifying crimes produced by the task force should really be a list of elements of crimes or combinations of elements of crimes. The task force or agency will need to assemble a reference of different states' crimes to make such a determination.

The Task Force on Highway Safety is also an excellent initiative. OOIDA suggests the task force's scope be expanded to study the homeland security risks to trucking in general, not just those hauling security sensitive information. Other security threats already exist in the opportunities terrorists have to steal large trucks, gain access to our food supply or acquire advanced technologies. As we say, if you bought it, a truck brought it. The vulnerability and need for security of all trucks on the road is one that has received scant attention from Homeland Security. We have long said that in the many areas where there is insufficient truck parking, truckers are forced to improvise by finding parking in on-ramps, exit ramps, the side of the road and out-of-the-way industrial areas that close for the night. These are just the kind of places that make truckers vulnerable. Terrorists are not going to get a CDL and security sensitive hazmat permit if such vehicles are "sitting ducks" in so many places in the country.

Finally, until the TSA has the ability to complete or assess background checks on Mexican, Canadian and other truck drivers of foreign origin that are at the very least as stringent and comprehensive as those being completed on American drivers, foreign truck drivers should not be provided with clearance to haul security sensitive hazardous materials. OOIDA sees no rationale, from a security, fairness or public policy standpoint, to give persons from foreign countries any leniency to this directive though in past rulemakings TSA has shown a willingness to do just that. OOIDA understands that Canada may have a similar security check in place for its drivers. But an analysis must be made, with public comment, comparing the two systems before the TSA can determine that the Canadian system is an adequate substitute for U.S. requirements. OOIDA is unaware of any such system in Mexico, and if there were, would consider its accuracy suspect.

## **Conclusion**

Although there are some significant security vulnerabilities in the trucking industry, the SAFE Truckers Act initiates steps towards making the transport of hazardous materials by truck more secure overall without adding unnecessary burdens and expenses to the federal government or commercial motor vehicle operators. Focusing the resources of the Transportation Security Administration on ensuring that individuals with red flags in their backgrounds are not being afforded access to haul security sensitive hazardous materials is an excellent starting point. There are intensive background check/security assessment processes for truck drivers already being utilized by other federal agencies. Integrating those background checks with the TSA and allowing agencies to look to one database for drivers with security sensitive clearance is consistent with both the

principles promoted by the 9/11 Commission and the mandates of the highway bill that passed last year. It will also save the government and private individuals both time and money by improving efficiency.

Hazardous materials that are not deemed to be security sensitive do pose safety risks to truck drivers, dockworkers and first responders. A general hazardous materials endorsement for loads that do not qualify, as "Security Sensitive" should be maintained in the licensing process for truck drivers. Along with mandated training and increased testing requirements for those wishing to obtain a Commercial Drivers License, compulsory training in the handling and transporting of non-security sensitive hazardous materials must be a part of the licensing/endorsement process.

Chairman Lungren, Congresswoman Sanchez, and members of the Subcommittee, thank you for providing me with this opportunity to testify on behalf of the members of the Owner-Operator Independent Drivers Association and thank you for introducing the SAFE Truckers Act of 2006.

I look forward to answering questions from the members of the Subcommittee.